

1 A bill to be entitled
 2 An act relating to insurance rate filings; amending s.
 3 627.062, F.S.; deleting authorization and procedures for
 4 use and file rate filings; revising requirements for
 5 making rate filings for certain classes of insurance;
 6 amending s. 627.311, F.S.; deleting authorization and
 7 procedures for use and file rate filings; revising
 8 requirements for filing rate plans by joint underwriters
 9 and joint reinsurers; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

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 13 Section 1. Paragraphs (a) and (h) of subsection (2) of
 14 section 627.062, Florida Statutes, are amended to read:

15 627.062 Rate standards.—

16 (2) As to all such classes of insurance:

17 (a) Insurers or rating organizations shall establish and
 18 use rates, rating schedules, or rating manuals to allow the
 19 insurer a reasonable rate of return on such classes of insurance
 20 written in this state. A copy of rates, rating schedules, rating
 21 manuals, premium credits or discount schedules, and surcharge
 22 schedules, and changes thereto, shall be filed with the office.
 23 ~~under one of the following procedures except as provided in~~
 24 ~~subparagraph 3.:~~

25 ~~1. All filings must be If the filing is made at least 90~~
 26 ~~days before the proposed effective date and the filing may ~~is~~~~
 27 ~~not be implemented during the office's review of the filing and~~
 28 ~~any proceeding and judicial review, then such filing shall be~~

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29 ~~considered a "file and use" filing. In such case,~~ The office
30 shall finalize its review by issuance of a notice of intent to
31 approve or a notice of intent to disapprove within 90 days after
32 receipt of the filing. The notice of intent to approve and the
33 notice of intent to disapprove constitute agency action for
34 purposes of the Administrative Procedure Act. Requests for
35 supporting information, requests for mathematical or mechanical
36 corrections, or notification to the insurer by the office of its
37 preliminary findings shall not toll the 90-day period during any
38 such proceedings and subsequent judicial review. The rate shall
39 be deemed approved if the office does not issue a notice of
40 intent to approve or a notice of intent to disapprove within 90
41 days after receipt of the filing.

42 ~~2. If the filing is not made in accordance with the~~
43 ~~provisions of subparagraph 1., such filing shall be made as soon~~
44 ~~as practicable, but no later than 30 days after the effective~~
45 ~~date, and shall be considered a "use and file" filing. An~~
46 ~~insurer making a "use and file" filing is potentially subject to~~
47 ~~an order by the office to return to policyholders portions of~~
48 ~~rates found to be excessive, as provided in paragraph (h).~~

49 ~~3. For all property insurance filings made or submitted~~
50 ~~after January 25, 2007, but before December 31, 2010, an insurer~~
51 ~~seeking a rate that is greater than the rate most recently~~
52 ~~approved by the office shall make a "file and use" filing. For~~
53 ~~purposes of this subparagraph, motor vehicle collision and~~
54 ~~comprehensive coverages are not considered to be property~~
55 ~~coverages.~~

56 (h) If ~~In the event~~ the office finds that a rate or rate
 57 change is excessive, inadequate, or unfairly discriminatory, the
 58 office shall issue an order of disapproval specifying that a new
 59 rate or rate schedule that ~~which~~ responds to the findings of the
 60 office be filed by the insurer. The office shall further order~~7~~
 61 ~~for any "use and file" filing made in accordance with~~
 62 ~~subparagraph (a)2.7~~, that premiums charged each policyholder
 63 constituting the portion of the rate above that which was
 64 actuarially justified be returned to such policyholder in the
 65 form of a credit or refund. If the office finds that an
 66 insurer's rate or rate change is inadequate, the new rate or
 67 rate schedule filed with the office in response to such a
 68 finding shall be applicable only to new or renewal business of
 69 the insurer written on or after the effective date of the
 70 responsive filing.

71
 72 The provisions of this subsection shall not apply to workers'
 73 compensation and employer's liability insurance and to motor
 74 vehicle insurance.

75 Section 2. Paragraph (e) of subsection (5) of section
 76 627.311, Florida Statutes, is amended to read:

77 627.311 Joint underwriters and joint reinsurers; public
 78 records and public meetings exemptions.—

79 (5)

80 (e) For rates and rating plans effective on or after
 81 January 1, 2008, the plan shall establish and use its rates and
 82 rating plans, and the plan may establish and use changes in
 83 rating plans at any time, but no more frequently than two times

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84 per any rating class for any calendar year. By December 1 of
85 each year thereafter, except as provided in subparagraph (c)22.,
86 the board shall establish and use actuarially sound rates for
87 use by the plan to assure that the plan is self-funding while
88 those rates are in effect. Such rates and rating plans must be
89 filed with the office at least 60 ~~within 30~~ calendar days before
90 ~~after~~ their effective dates, ~~and shall be considered a "use and~~
91 ~~file" filing~~. Any disapproval by the office must have an
92 effective date that is at least 60 days from the date of
93 disapproval of the rates and rating plan and must have
94 prospective effect only. The plan shall be subject to any order
95 by the office to return to policyholders any portion of the
96 rates disapproved by the office. The office may not disapprove
97 any rates or rating plans unless it demonstrates that such rates
98 and rating plans are excessive, inadequate, or unfairly
99 discriminatory.

100 Section 3. This act shall take effect January 1, 2011.